

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

SYLVER DEAN GOOD,

Petitioner,

v.

THE SUPERIOR COURT OF
HUMBOLDT COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

A117317

(Humboldt County
Super. Ct. No. E94401M)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

BY THE COURT:

The majority opinion in this matter filed January 16, 2008 is hereby modified as follows:

1. On page 1, the second sentence of the first paragraph is modified to read as follows:

“The expansion included misdemeanants who must register as sex offenders pursuant to former Penal Code section 290.”¹

2. On page 1, the following sentence is added to footnote 1:

“By urgency legislation effective October 13, 2007, former Penal Code section 290 was repealed and replaced with Penal Code sections 290 through 290.023, inclusive, which shall be known as the Sex Offender Registration Act. (Stats. 2007, ch. 579, §§ 7-31, pp. 3741-3749.)”

3. The sentence which begins at the end of page 1 and continues to the top of page 2, and the citation immediately following, are modified to read as follows:

“Because of this conviction, Good has an ongoing, lifetime obligation to annually register as a sex offender under the Sex Offender Registration Act, and to update his registration whenever he changes his residence. (§§ 290, subds. (b) & (c), 290.012, subd. (a), 290.013, subd. (a).)”³

4. On page 2, the first sentence of footnote 3 is modified to read as follows:

“Indecent exposure was included in former section 290 at the time Good was convicted.”

There are no changes to the statutory citations immediately following the first sentence of footnote 3.

5. On page 3, the first sentence is modified to read as follows:

“Rather, *it is the present requirement to register under . . . [former] section 290 that is the operative fact giving rise to the requirement to submit to sample collection.*” (Italics added.)”

6. On page 3, the last sentence of the third full paragraph is modified to read as follows:

“The Act required DNA samples from defendants convicted of a number of listed felony offenses, as well as defendants required to register for a felony sex offense pursuant to former section 290.”

7. On page 4, the second sentence of the second full paragraph is modified to read as follows:

“Section 296, subdivision (a)(2) mandated DNA samples from defendants who had to register as a sex offender ‘because of the commission of . . . a felony offense specified in [former] Section 290 . . .’ and who are confined, granted probation, or released from a state hospital.”

There is no change to the statutory citation immediately following this sentence.

8. On page 7, the second sentence of the second full paragraph is modified to read as follows:

“The statute requires samples from ‘Any person, including any juvenile, who is required to register under [former] Section 290 or 457.1 *because of the commission of, or the attempt to commit, a felony or misdemeanor offense . . .*’ (Italics added.)”

9. On page 8, the second sentence of the third full paragraph of text (which reads, “Indeed, section 296.2 has not been amended since it was added to the Act in 1998.”) is deleted.

10. On page 8, the first paragraph of footnote 8 is modified to read as follows:

“Section 296.2 subdivision (c) provides, in pertinent part: “Any person who is required to register under the Sex Offender Registration Act who has not provided the . . . [DNA] samples . . . described in [the Act] for any reason . . . as an additional requirement of registration or of updating his or her annual registration pursuant to the Sex Offender Registration Act shall give . . . [DNA] samples . . . for inclusion in the state’s DNA and forensic identification database and databank.”

11. On page 14, in the first paragraph, the citation to “§ 290, subd. (g)” is changed to “§ 290.018.”

This modification does not affect the judgment.

Marchiano, P.J.

Trial Court: Humboldt County Superior Court

Trial Judge: Honorable Christopher G. Wilson

Attorneys:

Kevin S. Robinson, Public Defender and Michael E. Eannarino, Deputy Public Defender, for Petitioner.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Gerald A. Engler, Senior Assistant Attorney General, Stan Helfman and Enid A. Camps, Deputy Attorneys General, for Real Party in Interest.

*Good v. Superior Ct. of Humboldt County;
The People, A117317*